

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

JOHN D. RUDD)	
)	
v.)	CASE NO.: 3:08-CV-00240
)	JUDGE ECHOLS
CHUBB NATIONAL INSURANCE)	
COMPANY)	MAGISTRATE JUDGE GRIFFIN

STATEMENT OF UNDISPUTED FACTS

1. The document attached hereto as Exhibit 1 is a true and correct copy of the policy issued by defendant for the period of 9/13/04 to 9/13/05 which insured plaintiffs' home at 180 Blair Blvd., LaVergne, Rutherford County, Tennessee on August 14, 2005.

RESPONSE:

2. The Coverage Summary Renewal of the policy indicates the plaintiffs' dwelling (home) had \$2.45 million of Deluxe Coverage with **Extended Replacement Cost**.

RESPONSE:

3. The policy provides, in part, as follows:

Payment basis

Your Coverage Summary indicates the payment basis for each house. [See Page B-1]

* * *

"Reconstruction cost" means the amount required at the time of loss to repair, replace or rebuild, whichever is less, at the same location, your house or any other permanent structure, using like design, and the quality of materials and workmanship which existed at the time of loss. . . ." [See Page B-1]

* * *

Extended replacement cost. If the payment basis is extended replacement cost, we will pay the reconstruction cost even if this amount is greater than the amount of coverage shown in your policy.

* * *

This payment basis is subject to the following limitations:

• * * *

- If you do not repair, replace, or rebuild your house or other permanent structure at the same location, the payment basis will be verified replacement cost. . . . [See Page B-2]

* * *

Verified replacement cost. If the payment basis is verified replacement cost, we will pay the reconstruction cost of:

- your house up to the amount of coverage shown in the Coverage Summary; and
- other permanent structures up to the amount of coverage for other permanent structures, whether or not you actually repair, replace or rebuild. . . . [See Page B-2]

RESPONSE:

4. Plaintiffs' home at 180 Blair Blvd., LaVergne, Rutherford County, Tennessee was destroyed by fire on August 14, 2005.

RESPONSE:

5. In September 2005, the defendant paid plaintiffs the sum of \$2,522,970.00, which sum represents the policy limits of \$2.45 million on the dwelling and increased by the Consumer Price Index as provided by the "**verified replacement cost**" provision of the policy. See Page B-1 of Exhibit 1.

RESPONSE:

6. Plaintiffs do not intend to rebuild at the same location as that listed in the policy, 108 Blair Blvd., LaVergne, Rutherford County, Tennessee. (Complaint, ¶ 10).

RESPONSE:

7. Plaintiffs have demanded that defendant pay additional sums under the "**extended replacement cost**" provision of the policy

for the construction of a new residence at a location which is not the same location as that listed in the policy. While not certain, it is believed plaintiff seeks to rebuild his new residence somewhere in Davidson County. (Complaint, ¶ 10).

RESPONSE:

8. The document attached as Exhibit 2 is a true copy of a letter dated November 7, 2007, from counsel for the plaintiffs to defendant sent before suit was filed in this matter.

RESPONSE:

9. The document attached as Exhibit 3 is a true copy of a letter dated November 28, 2007 from defendant to counsel for the plaintiffs in response to the letter dated November 7, 2007 from counsel for the plaintiffs.

RESPONSE:

10. The document attached as Exhibit 4 is a true copy of an email dated January 23, 2008 from Tim Blake from Chubb to counsel for the plaintiffs attaching the *Scardino v. American International Insurance* decision.

RESPONSE:

/s/ William B. Jakes, III
William B. Jakes, III (#10247)
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CERTIFICATE OF SERVICE

I certify that on May 29, 2008, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

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/s/ William B. Jakes, III
William B. Jakes, III